88-765(7)

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1988

Supreme Court, U.S.
FILED
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JOSEPH F. SPANIOL
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THANH VONG HOAI,
Petitioner,

v.

THANH VAN VO, THACH DUY NGUYEN, MY-LINH D. SOLAND, NGUYEN THI BACH LUU, THANH VAN VO, SUNTECH SUNOCO, INC., and MICHAEL ARIF,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

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APPENDIX II (Supplemental) PART E

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(Supplemental) APPENDIX II

PART E

Partial text of the Sworn Affidavit of PLAINTIFF/PETITIONER THANH VONG HOAI of March 25, 1987.

Paragraphs 437) through 522) pp 287-350

(Remainder of Affidavit in previous or subsequent parts.)

Pendergast that the check to Sunoco for gasoline had been returned, about the same time that the defendant THACH informed me that the defendants MINH and LUU had instructed him not to get loan application for me for the Mekong Center food store loan, the defendant THACH had told me, which I didn't quite understand at the time about how "strong" a person he, the defendant THACH, was and about how he knew how to handle the people and get his way, and about how he had held a gun to the head of Tuyen Giang, the owner-editor of the Vietnamese language advertising newspaper, the Vietnamese Washington Post and how that gentleman had gotten down on his knees and begged for his life.

437) That night, of the 27th, I told my wife what had happened and she was frightened and told me that we needed to

see a lawyer. I replied that to see a lawyer it would cost us two thousand dollars and that the defendants had taken all our money and we had none left. My wife begged me not to go back to the gas station and the homes of the defendants THACH or VO.

438) The next day I went to the Mekong Center food store with my wife. About 11:30 AM that morning the defendants VO and THACH came to the Mekong Center food store where my wife and I were together. The defendants THACH and VO approached, all smiles, and the defendant THACH said that they wanted to invite me upstairs to go to eat with them. My wife was frightened in light of the events of recent days and she said that she did not want me to go with these two defendants. The defendant THACH replied with a smile

that they just wanted to take me up to the restaurant on the second floor to eat with them and that I would not leave the building and that they would bring me back.

439) I said I wanted to go with them because I felt that they probably would not try to harm me in the Mekong Center building. My wife said she did not want me to go but that if I wanted to go she would not stop him.

440) I went upstairs to the restaurant of the Mekong Center on the second floor and sat down with these two defendants. At that time the defendant THACH told me that he, the defendant THACH, wanted to help me and my wife with the Mekong Center. I asked the defendant THACH, "What do you mean help ?" The defendant THACH said I want to help you

and your wife with your wife's store, the Mekong Center food market. I want to help you get the lease from our uncle and aunt (referring to the defendants MINH and LUU). The defendant THACH went on for quite a while in this vein, with me saying very little since I did not believe THACH any more.

441) After a while I asked the defendant THACH what he meant by saying he wanted to help me and my wife get the lease. "How you can help me get the lease ?" I asked. (translating into English.)

442) The defendant THACH explained that the defendants MINH and LUU were "in trouble" with the American Service Center where he had helped them buy a Mercedes but they had bounced a check to pay for their Mercedes and they were not threatened with being sent to jail.

443) In reality, this was another fraud and deception engineered by the defendant THACH, I now have it on information and belief, to make the defendants MINH and LUU vulnerable to himself, but at that time I did not know this.

444) The defendant THACH explained to me that defendants MINH and LUU had given the American Service Center a bad check in the amount of fifteen thousand dollars ($15,000.) and now was my opportunity to take advantage of the situation to get the lease. "Our uncle and auntie have a big problem," the defendant THACH said.

445) I said, "It is not my business. You helped them buy that car (speaking to defendant THACH); why didn't you help them with the money ?" "Well," said the defendant THACH, "that's the problem they

have now. If you want the lease now, you give them the money and they will have to give you the lease." "They (speaking of the defendants MINH and LUU) cannot get the money without me," the defendant THACH said.

446) I explained that I did not have the money to give them fifteen thousand dollars ($15,000.) because all of my money was tied up in the stock of the food store. The defendant THACH said that he knew that but that I should get the money from the defendant VO because the deffendant VO had the money. To this I replied with disbelief, almost laughing. Wait a minute, I said, you told me that VO had no money, that I could not get blood from the stone. How come you are telling me now that VO has the money.

447) To this the defendant THACH

replied: "I will help him to have the money. Listen to me, Mr. Hoai." Now you will get the money to pay MINH and LUU, he said, we have to get the lease. Defendant THACH explained to me that this was my one opportunity to get the lease, that if I did not get it now I never would get it. I said that I did not believe it, that eventually I would get the lease one way or another. No, said the defendant THACH, this is your one opportunity. Come to my house tonight, he said, and we will discuss in detail how to get the lease. I responded to this invitation by saying: "Let me talk to my wife. If she says no I will not come. If I don't come I will not call. If I do come, I will call you about the time.

448) By this time I and the defendants THACH and VO were finished

eating and I noticed for the first time that there were unusual numbers of the defendant "cowboys" in the restaurant that day, 4 or 5 tables full, whereas on most days there were only about 2 tables full. In fact, there were so many cowboys in the restaurant that there was no one else other than the defendants THACH and VO and the 4 or 5 tables of the defendant "cowboys." These "cowboys" are young male ethnic Vietnamese ranging in age from the late teens up to the late thirties in age, who hang around, and are used by the defrauders and extorters of the Vietnamese community, such as the defendants THACH, VO, MINH and LUU as their "street muscle" in their pattern of racketeering activity. Some of these cowboys, such as the man Hai Den, were known to me because of their propensity and reputation for intimidating

people and beating them up and I knew of their reputation for violence and for roughing people up and strong-arming them.

449) At this time the defendant THACH said, as he looked out at the cowboys whom I was obviously noticing: "Let me show you how I know people," he said, "I can get them to do what I want. These 'cowboys' have killed many people; they can do with them whatever they want. If you need to kill someone, just tell me and they will kill them." I replied that I did not need to kill anyone, I hadn't done anything. Defendant THACH then said: "Later on, you never know." Then the defendant THACH made a big point of going, in front of me, and shaking hands and exchanging friendly greetings with many of the "cowboys" who were sitting at the tables.

450) After this deliberate intimidation, I returned to my wife to tell her what had happened. She begged me not to go to the house of the defendant THACH again. This time I obeyed my wife's wishes and did not go or even call the defendant THACH again that day.

451) The next day I went with my wife to the Mekong Center food store early in the morning. About 9 AM or so that morning, April 29, 1986, the defendants THACH and VO showed up at the Mekong Center and told me and myh wife, all smiles, that defendants MINH and LUU will sign a lease for me and my wife if I and my wife have the money to pay the defendants MINH and LUU the fifteen thousand dollars ($15,000.) to pay off for the defendants MINH and LUU the bounced check which they had given to the American

Service Center for the Mercedes.

452) The defendant THACH then said that he and the defendant VO had no more time to talk about it that morning but that he, the defendant THACH, wanted me to come again to his house that evening late to work out the details of the lease that he would help me get from the defendants MINH and LUU. I asked how late that evening and the defendant THACH said about 10 or 11 PM. I then said I would come at 11 PM.

453) Against the advice of my wife, I went to the house of defendant THACH that evening at the appointed hour. When I arrived the defendants THACH and VO were at the former's house, along with the same Mr. Giang who had been there at the previous meeting.

454) I was greeted cordially on this

occasion and got right down to business drafting out a lease for the Mekong Center food store. In the lease, which a number of people saw and read over the next few days, I wrote in the following features: 1) 15 months with a five year option in accord with the master lease; 2) lease to be in the name of plaintiff's wife; 3) rent to be two thousand dollars ($2,000.) a month; 4) name to be changed to Solar Food Market; 5) No liability for prior debts of business or MINH and LUU; 6) new corporation belonging to me and my family; 7) business license to be in my name and owned by me 8) MINH and LUU to pay the utilities and for trash removal; 9) I to pay for telephone equipment and service.

455) After I drafted this lease and signed it, defendant THACH took it and said that it was a good lease but the only

thing is that it is written in English and that he knew that the defendants MINH and LUU would never sign a lease written in English. responded, well, let them object and we'll put it in both languages. Then the defendant THACH took the lease and said that he would get the defendants MINH and LUU to sign it and he would get the fifteen thousand dollars ($15,000.) for VO to give to me to give to MINH after MINH and LUU signed the lease. This was the help that defendants VO and THACH said they would give me and my wife as I understood it at the time.

456) After the threats against my life were made to me at the gas station on the 26th of April as alleged above, I noticed a definite change in the way I was treated by the personnel manning the gas station, all of whom by that time were the

individuals brought in by defendants VO and THACH. On all but a few of the days from the 26th of April up through the next several weeks, I went to the station but it became clear to me that the employees had been instructed not to do anything I asked them to do or talk to me because they did in fact refuse to do anything I said and refused to talk to me on the whole. The defendant VO had taken over my chair and desk in a way that all would notice and very visibly was supplanting me as if he, VO, were in truth me and the franchisee and lessee of the station.

457) I decided to try and get the situation straightened out with my wife's business at the Mekong Center if I could and then find out what I could do about the attempts to extort the station franchise from me. At this time I still

believed the fraud of the defendant THACH that the latter was the owner and president of the McLean Bank and therefore offered the most logical way out of the increasingly difficult situation in which my wife and I found ourselves.

458) The next day after the meeting at the house of defendant THACH on the evening of the 29th at which I drew up a draft of a lease for the Mekong Center on his own, on April the 30th, I went to the Mekong Center food store with my wife. That morning, at about 9:30 or 10 AM, the defendants THACH and VO came to the Mekong Center food store and invited me to have breakfast with them upstairs in the restaurant of the Mekong Center. In the meantime I had told my wife about what had happened the night before and she had told me that if I thought that the defendants

VO and THACH really meant to help us in this way that I should go ahead and deal with them.

459) I went upstairs with these two defendants to eat at the restaurant. At the breakfast the defendant THACH did the talking and acted very kindly, saying he wanted to do what was best for me and the defendant VO and wanted to us cooperate and be friends again. The defendant THACH said he would provide the money for me and the defendant VO to work it out together because he wanted to see us both have good businesses. The defendant THACH insisted that it be straightened out between me and defendant VO and that past bitternesses be forgotten. This was another fraud and deceit designed to force me, by a combination of deceit and the threats that had been applied over the

recent days, to act as if he had somehow been in the wrong when in reality the defendants VO and THACH had schemed together all along to defraud and extort my businesses from me.

460) The defendant THACH then again asked me to come to his house that evening and I said I would come around 10:30 or 11 PM. Defendant VO then said he would come there about that time as well.

461) I went to the house of the defendant THACH that evening around almost 11 PM. The defendant THACH was there alone, though his wife was somewhere in the back as usual. The defendant VO was not there when I arrived. The defendant THACH asked me to sit down. He then addressed me in very fatherly tones, saying that he did not want to see me and the defendant VO fighting any more and he

wanted each to have his own business interests.

462) The defendant THACH said that he had discussed these matters with the defendant VO earlier in the day and that the defendant VO had agreed to lend to me thirty thousand dollars ($30,000.), with fifteen thousand dollars ($15,000.) to be paid to the defendants MINH and LUU to enable me to secure the lease from them for the Mekong Center and another fifteen thousand dollars ($15,000.) to be used by my wife in the Mekong Center to obtain additional stock and otherwise make that business grow. The defendant THACH said that he wanted me to allow the defendant VO to be the "operating manager" of the station until I could repay the loan from defendant VO and that if in the meantime the defendant VO, while he was thus

operating the station, would violate any laws or any Sunoco rules that resulted in the franchise being suspended or removed in any way then I would not have to pay back the thirty-thousand dollars ($30,000.) loan from the defendant VO. Letting the defendant VO do this, the defendant THACH explained, would make the gas station management in effect "security" for the loan.

463) About 11:30 PM or so, or about a half hour after I had arrived, the defendant VO showed up at the house of the defendant THACH. I now believe this to have been a prearranged plan under which the defendant THACH was going to act reasonable and convince me of what sounded like a reasonable plan, then the defendant VO would show up and things would get a little tougher.

464) When the defendant VO showed up he asked how everything was going and the defendant THACH said that everything was straightened out and that I had agreed with what defendant THACH had suggested. The defendant THACH then dictated to me a note for thirty thousand dollars ($30,000.) which, at the defendant THACH's request, I wrote down in Vietnamese as the defendant THACH dictated. In it the defendant THACH changed one key provision by virtue of an ambiguity in the Vietnamese language. Instead of me getting the gas station back when I paid back the thirty thousand dollars ($30,000.), the defendant THACH tried to write it so that when the defendant VO decided to return the gas station, I would pay him back the thirty thousand dollars ($30,000.). This last was a deceit and a

fraud designed to make it so that the defendant VO could hold on to the gas station indefinitely. For whereas the defendant THACH had told me that I would be able to get back the station by removing defendant VO as "operations manager" when I paid back the money, he dictated the note to mean, as he wished it interpreted, that I would "transfer" the station to the defendant VO and when the defendant VO, if ever, decided to give up the station back to me then I would have to pay back the money loaned. But then he dictated into the note, after this passage, a thirty day payback provision that would require me, absent ambiguities, to pay back in thirty days all the money so that, in the design of the defendant THACH, I would have to pay back all the money in thirty days but would have no

authority to demand back the management or any other interest in my gas station. This was a fraud and a deceit fraudulently induced in which deliberate misrepresentations were made to induce me to rely upon them and I relied upon them to my detriment.

465) After the note was dictated by the defendant THACH and written down by myself, the defendants THACH and VO said that the note as written down by me was not very clear or clean and they asked me to write out a clearer and cleaner version of the note, which I did. After this second draft of the note was written out by me, the defendant VO read it and said it was all right with him and he signed it. Defendant THACH read it and said he was satisfied with it. Then I read it, and though I found it confusing, signed

it. The draftsman THACH signed as a witness.

466) Throughout the conversation of that evening at the house of Thach, the defendant THACH stated on several occasions that he was the banker and that he was arranging for the money from his bank (that he owned and was president of) the McLean Bank that would be loaned to the defendant VO to loan to me in turn. The defendant THACH represented that he was a sort of neutral stakeholder that would monitor myself and defendant VO and arbitrate any differences between them and would see that if either party got out of line and violated the agreement the violator would have to pay the other party. Once the note was signed the defendant THACH then played this pretense out further by announcing that he, as the

neutral banker, would hold the only copy of the note and would see that no one else had a copy. He ordered me to take the original draft he had made, the one that these two defendants had rejected as being too dirty and unclean, and throw it away. Later, after the ensuing fraud about not giving the promised money, I retrieved it from the trashcan unseen as a precautionary measure against further fraud and deceit. Now this business about being the banker and a neutral stakeholder and arbitrator was a fraud and a deceit. It was a deliberate misrepresentation designed to induce me to rely upon it to his harm and detriment which I did.

467) After the note was signed and the defendant THACH had put on his phony show about being the banker and therefore the neutral arbitrator and stakeholder, I

asked where the thirty thousand dollars ($30,000.) was for which the note was made. The two defendants acted very taken aback and looked at each other and put on an act. The defendant THACH then said that it was too late at night, that the banks were closed, that he had personally spoken to three loan officers at his bank, the McLean Bank, and arranged for the loan of the thirty thousand dollars ($30,000.) and that he would personally come in the morning and pick me up at the Mekong Center between 9 and 9:30 AM the next morning and take me to the bank and get the money out for me.

468) When this was said I said, no, wait a minute, I want money now. That was what I was promised. The defendant THACH then said: "Wait until tomorrow morning." I responded, then give me back the note

until tomorrow morning and in the meantime I will make a Xerox copy. This is when the defendant THACH acted very indignant and said that he would not give the note back, that he was the holder of the note and that none but he would have a copy. I then retrieved the duplicate first draft of the note from the trash can and the meeting broke up on an unfriendly note. I left in a hurry without comment.

469) The next morning, the morning of May 1, 1986, I waited at the Mekong Center food store for the defendant THACH but he never came. Shortly after 11 AM I grew tired of waiting and drove to the gas station. When I arrived at the gas station the defendant VO was not there. I waited at the gas station. Around 5 O'Clock the defendant VO showed up. I asked the defendant VO: "Where's the

thirty thousand dollars ($30,000.)?" The defendant VO said: "Thach's got it, Thach's got it." I responded that the defendant VO always said it was THACH and THACH always said it was VO, but he was tired of a runaround and he wanted his thirty thousand dollars ($30,000.) now. The defendant said: "I already told you that THACH has your thirty thousand dollars and he is getting the money out. That's all I can say." I told defendant VO that both he and THACH were lying to me.

470) I then returned to the Mekong Center and called the defendant THACH on the phone at home and asked where his thirty thousand dollars was. The defendant THACH then answered that the bank had not approved the loan for the defendant VO.

471) To this I replied, "What do you mean the bank didn't approve the loan, you're the president of the bank and you told me that three different loan officers had approved the loan already as of last night and the money was already in VO's account and now you tell me that the bank has not approved it. What do you mean ?"

472) The defendant THACH then replied that well that he was only reporting what the bank had reported to him as the president and that the bank staff had reported that VO did not have the papers necessary for the loan. I responded by asking the defendant THACH what papers were necessary that the defendant VO did not have. The defendant THACH replied that the bank wanted the loan secured by the gas station and that I had to sign the contract proposed by the defendant ARIF

under which I would sell the business of the gas station to the defendant VO for one dollar before the bank would make the loan to the defendant VO so he could in turn loan it to me.

473) To this I responded by repeating that I had told the defendant THACH that I could not and would not sign any contract selling the gas station for one dollar.

474) At this point I became exasperated and lost my temper and, for the first time, I began cursing at the defendant THACH over the telephone. After I had cursed at the defendant THACH, the defendant THACH said to me: "Mr. Hoai, your head is on my hand." (English translation). This is a literal translation of a well known Vietnamese expression that indicates that the person using it has total control over the life

of the person addressed, including, if necessary, the power to either kill that person or save that person's life by a favor.

475) I demanded the thirty thousand dollar note back and said I wanted the gas station back under my control and then hung up.

476) Around 10 PM that evening the defendant VO called me at home and told me that the money was already in the bank, thirty thousand dollars ($30,000.) and that on the next day he, the defendant THACH and I would get together and get it out. I said that if the defendant VO had thirty thousand dollars that would be fine, he would get it tomorrow. The conversation was ended.

477) After 11 PM the defendant THACH called plaintiff at home and said, in

English: "Mr. Hoai, spot news." I asked what he meant by "spot news." The defendant THACH then said that he understood that the defendant VO had earlier called me and told me that the money was in the bank. Defendant THACH then said that that report from VO was not right. "The bank just called me ten minutes ago, Mr. Hoai," he said, "telling me that beginning tomorrow the bank cannot approve any loan over fifteen thousand dollars ($15,000.)." 478) I replied: "Mr. THACH, are you kidding me ? I'm not a kid, no bank can be open at 11 O'Clock at night."

479) To this the defendant replied: "I am the owner of the bank. They have to report to me and tell me any change, any news, reporting to me everything at any hour, whether it is 11 O'Clock, 12

O'Clock, 1 O'Clock, whatever. If you don't believe me, come here and I will show you the computer printout."

480) I said: "I don't believe you any more. Just give me the thirty thousand dollar note and tell me VO get out of the gas station tomorrow." At this point the defendant THACH said: "We are not playing with you. You have to listen to us and looking at your family, your wife, your four children, they need you." To this I replied: "Of course, they need me and I love them." The defendant THACH then said: "So listen to me, you have to sign the one dollar sale contract to VO and get fifteen thousand dollars to pay MINH and get the lease." At this point I said: "I do not sign it and I want the thirty thousand dollar note back and I want the gas station back from VO." Then I hung

up.

481) My wife had listened to these conversations with the defendants VO and THACH on the evening of May 1, 1986, on another extension. She told me after I hung up on the defendant THACH: "He will call back." Fifteen minutes or so later the defendant THACH called back.

482) "Well, I call VO," the defendant THACH said, and VO agreed to come here tomorrow, and I want you to come here tomorrow and we'll straighten it out." I asked him what he meant by "straighten it out." The defendant THACH replied: "We'll do something; We'll figure it out tomorrow. You come to my house about 9 or 9:30 in the morning." I replied that if the defendant VO would come I would also. That was the end of the conversation

483) The next morning, of May 2,

1986, about 9:15 AM or so in the morning, I arrived at the house of the defendant THACH. As I drove up I saw the van of the defendant VO with the defendant VO inside at the steering wheel and the defendant THACH was standing by the door of VO's van on the driver's side with that door open and talking to the defendant VO.

484) I parked my car on the street in front of the house, got out and walked up to the two defendants, saying "good morning" in English. The two defendants answered in English also: "Good morning, Mr. Hoai." The ensuing conversation was all in Vietnamese. As I approached up the driveway to the van of the defendant VO on the driver's side, defendant THACH said: "Hurry up, drive Mr. Hoai to the bank immediately." The defendant VO abruptly moved across the front seat of the van,

flung open the door and grabbed me by the wrist and yanked me into the front seat of the van, moving back toward the driver's side as he did so. The defendant THACH meanwhile, quickly moved around and shut the door of the van on the driver's side forcefully as I was yanked into the vehicle. As he did this, the defendant THACH said to the defendant VO: "Drive immediately to the bank I will follow you."

485) The defendant VO drove out of the driveway, driving fast, and immediately he said to me: "Brother Hoai, you have to listen to what the brother THACH said to you last night." I said: "What is it that brother THACH said to me last night." The defendant VO said: "You know, Mr. Hoai, I don't have to tell you, but only one thing: Your wife may have to

suffer and you have a very nice family as I have." At this point I became very nervous. I was overcome with how much my family meant to me and I was afraid that I was in the van alone with VO and the defendant THACH was not there but was following. I recalled that the defendant THACH had emphasized to me in the preceding days that he would not kill him, if he decided to, with his own hands, but would have somebody else do it. I recalled that when the defendant THACH told me the story of holding the gun to the head of the newspaper editor, Tuyen Giang, and making him beg for his life, he also told me about how he, THACH, had ordered the deaths of the customers, 4 or 5 in number, who were shot down in cold blood in the shootout by "cowboys" at the French-Vietnamese restaurant, The Bistro,

on Wilson Boulevard, in 1983 or 1984.

486) I knew I was going to have to give in to save my family from harm and I said: "Tell me what is it you want ?" The defendant VO replied: "There's only one thing I want you to do for me and that is sign the one dollar contract." "I already told you," I said, "I cannot sign that contract because Sunoco will not permit me to sign that contract. I've already told you, and THACH, and ARIF the lawyer, I cannot sign because Sunoco does not permit me to sign."

487) The defendant VO then abruptly rolled down the window on his side of the van and stuck his arm out the window and waved a fist in the air. "Brother Hoai, I swear to the gods if I show this contract to the Sunoco and let the Sunoco know about it, I will be killed in an accident;

my wife will be killed; my son will be killed." There was a pause, then the defendant VO said: "After you sign the contract, you will get the money and we will take you to MINH and we will get the lease for you right away."

488) I was feeling that I was in very grave danger. The defendant VO had become to me a very frightening man, since the threats had begun, and even from the time that I first began to see VO and THACH together, other members of the Vietnamese community had been telling me of the defendant VO as a man who was known for violence and for having been involved in violent criminal acts and I had been told several times that the defendant VO had gotten worse in this regard after VO had started hanging around with THACH. I knew that VO and THACH had seized control of

the gas station anyway as a practical matter and I believed that I had better not provoke any more of these threats against myself and particularly my family if we were to get through this ordeal in one piece. I believed that if he could get the Mekong Center secured I could someday fight back and I believed that it was a principle of the American laws that a contract signed under threats of death and bodily harm such as I had now been receiving for days, could be overturned if I could once get in the clear financially and afford to fight the injustice I now knew was being done to me. I did not realize that my tormentors knew they now had me grasping at straws which they intended to yank away from me. I still believed at this point that the defendant THACH was, as he had always said, the

owner and president of the McLean Bank, and I believed that bank presidents could be held to some accountability for such actions in a country like the United States if only I could get a little room and a little money to fight with.

489) Soon they came to the McLean Bank headquarters. The defendant VO parked the van in the parking lot and got out. I got out on my side and followed the defendant VO into the bank. The defendant THACH was nowhere to be seen. The receptionist greeted the defendant VO by name as they came into the lobby. "Good morning, Mr. VO," she said. The defendant VO led me straightaway to an American lady about 25 to 30 years old. The plaintiff VO said that this lady was a notary and he asked me to sign the contract in front of her. At this time

the contract was the same as it had been ever since it was first shown to me at the offices of the defendant ARIF in the law offices of the firm of Busman and Busman, but it no longer was on the letterhead of the defendant ARIF as a member of that firm. Still afraid for myself and my family, I signed the contract, thinking still that if I could get the Mekong Center food store free and clear, I could do something about it later. After I signed, the lady asked me for my driver's license. I showed the lady my driver's license. The lady said, in English: "That's it." I did not later remember seeing the lady enter in a notary book as notaries usually do, the name of the document. Although the contract recited that the defendant VO was giving me one dollar ($1.) neither the defendant VO nor

anyone else ever gave me the one dollar and, on legal advice, months later, I while contesting the legality and validity of the contract in any case, formally rescinded it for the failure to deliver the one dollar as recited.

490) After I signed the one dollar contract under this duress, I followed the defendant VO to the second floor of the bank. Still there was no sign of the defendant THACH. On the second floor the defendant VO led me to an office and went in. Inside the office a man was sitting at a desk. On the desk there was a name plate. As near as I can now recall (He was at this time extremely agitated) the name plate said: "Mr. Kevin." The defendant VO then said in English: "Mr. Kevin is a loan officer." He introduced me to Mr. Kevin who asked me to have a

seat. Mr. Kevin already had on his desk a file folder, closed. He pulled the file to him and then said: "Here's your file and your loan has already been approved." Mr. Kevin then mentioned a figure of seventy-five thousand dollars ($75,000.). The defendant VO said: "I don't need seventy-five thousand dollars ($75,000.), I only need fifteen thousand dollars ($15,000). Mr. Kevin said: "Whatever you need." There was still no sign of the defendant THACH.

491) This was about 10:00 or so in the morning of May 2, 1986. The man whom I remember as Mr. Kevin then said to the defendant VO: "Your money will be in your account about 3 O'Clock. I will put it in your account. Come back around 3. The money will be there." or words to that effect.

492) This made me very angry again, both because the defendant VO had again broken his word in asking for only fifteen thousand dollars ($15,000.) instead of the promised thirty thousand dollars ($30,000.) and because the bank loan officer whom he remembers as Mr. Kevin had offered seventy-five thousand dollars ($75,000.) which clearly meant that the statement to him on the telephone a few nights before by the defendant THACH about a fifteen thousand dollar ($15,000.) loan limit had been a lie. But I believed I was trapped and threatened to the point where there was nothing I could say without risking my physical safety and that of my family.

493) We left the office and went to the elevator to go to the first floor. When we got on the elevator there was a

man on the elevator, an older American man, somewhere between the later forties and early sixties in age (It is hard for the plaintiff to tell.) When this man saw VO, he asked: "Did somebody take good care of you ?" The defendant VO said: "It was perfect. Thank you, sir." Then the defendant VO said to me in the Vietnamese language: "This is THACH's father-sponsor," and said the man's name, but I do not now remember this man's name. We left the bank. I was still very afraid and I was afraid to ask about the other fifteen thousand dollars ($15,000.) I was supposed to get.

494) The defendant VO drove me back to the defendant THACH's house. The defendant VO was listening to the radio and acting very happy. I was afraid and withdrawn. When I got to my car I drove

to the Mekong Center food store and told my wife the sad story of what had happened.

495) Around just after 11 AM the defendants THACH and VO both showed up at the Mekong Center food store, laughing at me. I was to control myself and, despite my fear, grew very angry. I demanded from the defendants that they return the thirty thousand dollar note since they had not given me thirty thousand dollars and that they return the gas station to me which they had taken by threats of force. My wife grew afraid and tried to stop me from shouting at the defendants THACH and VO, with whom, at this time, I almost came to blows. I said to the people in the neighboring shops in the Mekong Center: "They lied to me, they have tricked me." He said it to three

people, the owner of the tailor shop, the restaurant shop, and the jewelry store.

496) The defendants THACH and VO left the Mekong Center. Out on the sidewalk they again started laughing at me and went down the street two doors to the Dai Nam Restaurant to celebrate.

497) Back in April, on the 27th, in the evening, at the meeting at THACH's house where the defendants THACH and VO laughed at me and threatened me and my family, the meeting where I met the man who was introduced as the brother of 4 Star General Khiem, the defendants THACH and VO had told me twice, in very strong language, that I should not go to the police because the defendant VO was very strong with the police and they would not listen to me and if he tried to take his gas station back they would have arrested

and the police would lock me up.

498) On the day after that evening meeting of the 27th, on the 28th of May, I called a lieutenant I knew on the District of Columbia police force, Lieutenant Stanley, and asked Lt. Stanley if, as the owner,I could get help from the police to evict the defendant VO from the station. Lt. Stanley asked me to let him check on it, because he had heard something on that gas station, and he would call me back. Lt. Stanley called back that same day and told me that the defendant VO had some kind of paper filed showing him as owning the station and that he was very sorry but, because defendant VO had filed this paper, he, Lt. Stanley, could not get involved.

499) This unwillingness of someone I knew on the D.C. police force to get

involved was in my mind when I decided to sign the one dollar contract earlier in the day and it was on my mind now. I remembered the defendant THACH telling me that the defendants, THACH and VO, were strong and the American law was weak.

500) I knew at this time that my only hope to retrieve any of my investment in time and money and keep myself and my family from harm was to secure the business of the Mekong Center food store by paying the twenty thousand dollar ($20,000.) purchase price agreed upon between my wife and myself on the one hand, and defendants MINH and LUU on the other hand.

501) On the same day, back on the 28th of April, that the defendants VO and THACH had had breakfast with me in the restaurant at the Mekong Center and

demonstrated to me the friendship of the defendant THACH with the "cowboys" and asserted how they could kill anyone if asked by the defendant THACH. On that same day in the afternoon, a phone call had come into the Mekong Center. The caller asked for the defendant MINH and introduced himself on the telephone as "Tom Brown" from the American Service Center. He said he was looking for the defendants MINH and LUU who had given the American Service Center a bad check to pay for a Mercedes automobile in the amount of fifteen thousand dollars. ($15,000.) This man Tom Brown said that if the check was not made good right away by the defendants MINH and LUU, the American Service Center was going to have the defendants MINH and LUU locked up by the Marshal. He asked me to notify MINH and LUU of this. I

replied that this was not my business. Tom Brown then said that he knew it was not my business, but as long as I was there, I could give the defendants MINH and LUU the message. I agreed to do that.

502) On the 30th of April, a man came to the Mekong Center food store while I was there in the afternoon and identified himself as Tom Brown from the American Service Center. He was a tall American. At this time Tom Brown asked me if I had delivered the message to the defendants MINH and LUU. I said I had. Tom Brown told me to tell MINH and LUU that if they did not make the check good by May 2, the American Service Center would have the marshal lock them up. I said I would deliver the message.

503) Throughout these conversations

between me and the defendants VO and THACH from the time when they told me at breakfast that they would help me him get the lease from defendants MINH and LUU and showed me the "cowboys," the defendants THACH and VO had insisted to me that the defendants MINH and LUU had a need for fifteen thousand dollars ($15,000.) right away to cover the bad check and that they had talked to MINH and LUU who said that they needed the fifteen thousand dollars right away and that I could pay the five thousand dollar ($5,000.) balance of the purchase price for the Mekong Center food store business a few weeks later.

504) At that time, even with the loss of the gas station through the extortion and fraud of the defendants VO and THACH, and with my and my wife's capital from my mother-in-law tied up in the inventory of

the Mekong Center food store, I still had access to another five thousand dollars ($5,000.) if I needed it, even apart from the cash flow generated by the food store itself, which was by then, on May 2, 1986, up to around six or eight hundred dollars ($600. or $800.) a day average, or between forty-two hundred dollars and fifty-six hundred dollars ($4,200. and $5,600.) a week. (Vietnamese stores operate seven days a week.)

505) While I was worrying about these things and worrying about how I was going to get the money from VO at 3 PM and use it to get MINH and LUU to sign the lease, a Vietnamese lady whom I had met before and who was now introduced to me as the wife of Four Star General Vien (Four star generals being very, very, very important in Vietnam) invited me to come to the

party at the Dai Nam Restaurant where VO and TACH were celebrating and told me that VO and THACH and even she were going to help me get the lease from the defendants MINH and LUU. I went to the restaurant unwillingly out of a mixture of fear and deference. At the restaurant this lady, who was about sixty-five years old, was now claiming to to be his "sister," told me that she understood that I was upset with the thirty thousand dollar note and the one-dollar contract for the sale of the service station. But she said that she wanted me and the defendants VO and THACH to work together and be "strong" together. She told me that the important thing now was for not to be upset about the thirty thousand dollar note and the one-dollar contract for the sale of the station but for me to get the lease for

the food store business from MINH for my wife. She said that if I did not get the lease that day from MINH and LUU with the help of VO and THACH she would get the thirty thousand dollar note and the one dollar contract back from VO for me. (Weeks later I asked defendant THACH for her number to do this but THACH refused to give it to me.)

506) At three O'Clock PM I,I, VO and THACH arrived back at the McLean Bank in the van of the defendant VO. The defendant THACH, still fraudulently claiming to be "the" owner and president of the bank, said to me that it would be unseemly for him, as the president and owner of the bank to be personally involved in anything so small as a fifteen thousand dollar certification of a check and so he could not go in the bank; it

would smack of favoritism toward his Vietnamese friends and countrymen. VO and I went in the bank and I sat in the lobby. VO went to a lady cashier and very quickly wrote a check and had it certified with a stamp almost before the I knew what was happening. The check was made out to me in the amount of fifteen thousand dollars.

507) When the lady had certified the check, I started to get the check from VO, but the defendant VO stopped me, saying that he, the defendant VO, would hold the check, and he would get the lease from the defendants MINH and LUU because, he said that if he gave it to me, I would give the check to MINH and LUU without getting the lease and he, VO, did not want to see that happen. This was a fraud and a deceit. In fact all these four defendants had

arranged it so that they would stage a scene to trick me into doing just that, endorsing the check to MINH and LUU without getting the lease, with the threat of physical force lurking in the background. I realized I was being defrauded and extorted yet again.

508) VO hurried out of the bank, motioning me along and grabbed me and pushed me into the van. From the bank, I, VO and THACH, in VO's van, immediately drove to the home of the defendants MINH and LUU at the Skyline Towers Condominium, Apartment 105, at Bailey's Crossroads.

509) On information and belief, I state that previously that day, one or both of the defendants THACH or VO had called the defendants MINH and LUU and had told them that I, together with VO and THACH,would be arriving at about the time

that we, in fact, arrived.The scene that ensued was all staged and was an act to deceive and defraud the plaintiff.

510) The defendant THACH began to set up this fraud and deceit on the way to the house of defendants MINH and LUU in the van. He told me he would handle everything for me. Don't say anything when we get to MINH and LUU's, he told me VO and HOAI, you listen to me, we must plan very carefully. When we get to the MINH's house, do not give them the check VO, you tell them we want the lease before the check. Then I, THACH, will say the same thing and back you up.

511) When they arrived MINH and LU were waiting for them and had five glasse all set up for drinks. All sat down. V said to MINH and LUU that they would hav to sign the lease for me before they coul

get the check. THACH had the lease, which I had prepared for the defendants MINH and LUU to sign. It incorporated the terms which the parties had agreed upon and which my wife and I had acted upon and partially performed.

512) When VO said this the defendant MINH let out a great roar and, speaking loudly, crashed his fist on the table and ordered THACH out of the table. He did this so loudly and forcefully that at first I thought that surely VO would leave. But VO did not move. Then, however, MINH got carried away with it and did it so many times that I suddenly realized that it was an act and that again some trick was afoot.

513) MINH said loudly that he was dealing with millions, tens of millions and hundreds of millions and reproached VO

for approaching him and threatening hi
over a small amount like fifteen thousan
dollars.

514) Suddenly I felt that all four o
these defendants were working together
that this had been set up beforehand and
for the first time I realized that al
four of these defendants had been workin
together for some time. I was afraid.

515) I said to VO: "Keep your fiftee
thousand dollars and get out and get home
I don't want it. I don't want to borro
it."

516) At this point THACH stood up an
said to VO: "Hey VO, I am THACH and I a
the guarantor for this fifteen thousan
dollar check." This was a fraud and
deceit. "Just give it to Mr. Hoai and le
him endorse it and give it to our uncl
and auntie (referring to MINH and LUU); i

something happen to the check I will pay you back."

517) I did not know whether THACH was going to forge the endorsement or what, but knew that THACH intended to endorse the check over to MINH and LUU whether I actually endorsed it or not, from everything that had gone on up until then. The threat of physical violence, I suddenly now knew, was there behind MINH and LUU as well and all four of these defendants were working together, THACH being the dominant one.

518) VO took out the check and reached over and handed it to me, looking in my face, staring in an intimidating stare, without a trace of friendliness. "Mr. Hoai," he said, "endorse the check and give it to uncle and auntie. THACH is responsible for it." THACH was standing

up, also staring at methe plaintiff with an intimidating stare without a trace of friendliness. I felt in my mind as if it did not matter how much I paid or worked or how much my wife and I built up the food store business, these defendants were going to threaten me with violence and take the investment from us that my wife and I had built up.

519) I endorsed the check over to MINH and LUU. MINH took the check back to his bedroom and placed it out of sight. He came back in and stood at the table beside his wife and looked at me. "We are very sorry, Mr. HOAI," he said, "We are a little upset, we cannot sign the lease today, we will sign it tomorrow." Then up spoke the defendant THACH: "Well, Mr. VO and Mr. HOAI, our uncle and auntie say so; we had better believe them and we had

better go now." VO, THACH and I left with me leaving because I was so upset with what had been done to me.

520) In the van I asked the defendants VO and THACH why, when I had told them I did not need the fifteen thousand dollars and to take the check and leave, they did not do as I asked. THACH said that "We were trying to keep calm so that they would sign the lease for you, but they didn't sign, what can we do ?" A little later THACH said: "I will make them sign." I said: "Whatever you say. Take me to the Mekong Center." The two defendants did.

521) From May 3, 1986, until May 15, 1986, I went to my franchise gas station at 2305 Pennsylvania Avenue, S.E., in the District of Columbia, every day for two or three hours only. During this time the

employees whom the defendant VO had brought in were there and they were very hostile to me. They would let me sit in the chair I had occupied and use the telephone. But all of these people would stare at me and say nothing. If I spoke to them, they would either not reply or they would say, "We are working now, don't bother us," or something similar and turn away. Obviously they had been instructed to act as if I was not there.

522) On these days, I saw others in the gas station, young ethnic Vietnamese men who did no work of the gas station and made no effort to do any. They just hung around. Several of these he recognized as having been among the "cowboys" who were in the restaurant at the Mekong Center occupying 4 or 5 tables back on the morning of April 28, when the defendant

THACH made a display of shaking hands with and greeting the "cowboys"
and told me how they could kill people. One of these "cowboys" I recognized as having seen in the restaurant that day I heard called by the name of Minh by some of the others. When I was in the station on one of these days, an older ethnic Vietnamese man whom I knew by sight came into the station to get some work done on his car and I asked him if he knew the one known as Minh, pointing out that "cowboy." The man told me that Minh was a very bad guy who had been a problem with a record at the police station who was known at the court house in Arlington.